GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Kadirappa Kuni, S/o late K.Nagappa, Chittoor District, against the proceedings No.C3/4705/2003, dated 14.01.2007 of the District Collector, Chittoor, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition allowed – Orders -Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.12 Dated:05.02.2019

Read the following:

1. Proceedings of the District Collector, Chittoor, Rc.No.C3/4705/2003, dt.14.01.2007.
2. Appeal Petition filed by Sri Kadirappa Kuni, S/o late K.Nagappa, before the then M(SW&TW), Endt No.401/M(SW)/2007, dated 19.02.2007.
3. Govt. Memo No.1198/CV.2/2007, dated 05.03.2007.
4. The Order of the Hon'ble High Court of AP, Hyderabad in WP No.7514/2007, dated 12.04.2007 filed by Sri Kadirappa Kuni.
5. From the Director of Tribal Welfare, AP, Lr.Rc.No.731/2007/TRI/VC-6, dated 19.04.2007.
6. Govt. Memo No.1198/CV.2/2007, dated 18.05.2007.
7. From the District Collector, Chittoor, Lr.No.Roc.C3/4705/2003, dt.29.03.2008.
8. Memorandum of Additional grounds filed by Mr. B.V.Krishna Rao, advocate on behalf of the appellant, dated 06.2008.
9. Govt. Memo No.1198/CV.2/2007, dated 14.08.2008.
10. From the District Collector, Chittoor, Lr.No.Roc.C3/8240/2010, dt.16.01.2012.
11. Govt. Memo No.1198/CV.2/2007, dated 17.11.2015, 02.05.2018 & 05.06.2018.

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ORDER:

In the reference 1st read above, the District Collector, Chittoor has issued orders cancelling ST-Yerukula caste certificate obtained from the then Tahsildar, Madanapalli in the year 1971 by Sri Kadirappa Kuni, S/o late K.Nagappa.

2. In the reference 2nd read above, Sri Kadirappa Kuni, S/o late K.Nagappa, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Chittoor. After examining the said Appeal Petition, Government have granted stay on the proceedings of the District Collector, Chittoor and the Director, TCR &TI was requested to furnish comments, on the ST status of Yerukula community of the appellant in the reference 3rd read above and the Director of Tribal Welfare, AP has furnished his reply on the said issue in the reference 5th read above.

3. In the reference 4th read above, Sri Kadirappa Kuni, S/o late K.Nagappa has filed W.P.No.7514/2007 before the Hon'ble High Court of Andhra Pradesh, Hyderabad against the in-action of the respondents in considering the stay petition filed by the petitioner along with Appeal in S.No.401/M(SW)/2007, dated 19.02.2007. The Hon'ble High Court of Andhra Pradesh, Hyderabad while disposing the said WP on 12.04.2007 has directed the Government to consider and dispose of the appeal as expeditiously as possible and pending disposal of the appeal, the stay granted by the Minister for Social Welfare and Tribal Welfare, AP on 19.02.2007 shall operate. But, due to several administrative difficulties the matter could not be disposed off within the time limit as directed by the Hon'ble High Court in the said W.P., however, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority.

4. In the reference 6th read above, the District Collector, Chittoor was requested to furnish the parawise remarks and connected records on the said appeal petition filed by Sri Kadirappa Kuni, S/o late K.Nagappa.

5. In the reference 7th read above, the District Collector, Chittoor has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Kadirappa Kuni, S/o late K.Nagappa.

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6. In the reference 8th read above, Mr. B.V.Krishna Rao, advocate to the appellant has filed memorandum of additional grounds on behalf of the appellant and the District Collector, Chittoor was requested to furnish remarks on the additional grounds filed by the appellant vide reference 9th read above.

7. In the reference 10th read above, the District Collector, Chittoor has furnished his remarks on the additional grounds filed by the appellant.

8. The said Appeal Petition has been posted for hearing on 28.11.2015, 19.05.2018 and finally on 23.06.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 11th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. Further, the appellate authority has conducted final hearing on 23.06.2018 and the appellant/ advocate to the appellant were attended the hearing and argued the case.

9. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant the parawise remarks submitted by the District Collector, Chittoor and proceedings of the District Collector, Chittoor, dated 14.01.2007, the Appellate Authority is observed that:

I. The appellant in his grounds has stated that the appellant's forefather was originally belongs to Schedule Tribe. The appellant's father has married Siddhamma who belongs to Yadava community. Out of the said wedlock, he got two sons and one daughter. Due to financial conditions of the family, the appellant's father could not educate his elder son, but with great difficulty, he educated the appellant up to PUC. In all the school records starting from 1962, the caste of the appellant is shown as Yerukula community which is a Schedule Tribe.

II. The District Level Scrutiny Committee has observed that the appellant has failed to produce the basic information and reliable records in support of his claim. The School records is not an authenticated record to prove the claim of the caste of a person as per Govt. Memo No.18860/J1/90-13, S.W.(J1) Dept., dt.28.10.1995. It is fact that the father of the appellant belongs to ST-Yerukula community and he got married Siddamma, who belong to BC-Yadava community and lived with her in Mandemvaripalli, but the appellant did not produce any other documents or other evidences as required as per rules prescribed. Therefore, the DLSC, Chittoor in rejecting the school records produced by the appellant and in canceling the caste certificate issued by the Tahsildar, without competency is just and proper. Further as per the decisions and observations of the Apex court of India in similar cases, that in the cases of inter–caste marriages, the circumstances, customs followed and locality brought up are main ingredients to decide the caste of off springs of inter caste couples. Here the appellant is brought up among the locality of more than 200 Yadava (BC) families, as such the applicant cannot be considered as Yerukula community, as no such community people are residing in the village of Mandamvaripalle. Finally the DLSC has concluded that the claimant’s family members didn’t grown up in the vicinity/ locality of Scheduled Tribes colony. Finally based on the findings of the DLSC, the District Collector has cancelled the appellant’s ST caste certificate.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that during the course of hearing of the case, the appellant submitted his arguments as per her grounds in appeal petition and stated that the lower authority failed to observe that his father belongs to Yerukala caste and he studied as ST Yerukala and that he belongs to ST and his caste certificate was issued basing on the due verification and enquiry and ST Community accepted him and further stated that for his own reasons he is not adopting the Yerukula caste for his children as he secured job purely on merit basis and that he wants them to come on meritorious basis. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the Mandal Revenue Officer submitted that the individual was under guardianship of his father hence he was admitted in the school by his

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father who is Yerukula by caste and the caste of the individual have been registered as Yerukula. It is also observed that as per the secondary school leaving certificate the individual date of birth is 01-07-1957 in which his caste was entered as Indian Hindu-Yerukula and the individual brought up as Yerukula caste and as per the record the father of the individual died during the year 1976. The said evidence clearly establishes that the appellant belong to ST Yerukala caste and he able to discharge his burden as per the act and rules.

V. Further, it is observed that as per G.O.Ms No.371, dated 13.04.1976 read with circular Memo No.10956/CV.1/97-2, dated 16.2.1998, instructions were issued by the Government for issuance of Caste Certificates in respect of children to off-spring couples:

V. Status of the Off-spring of a couple where one of the spouses is a member of Scheduled Caste and the other that of a Scheduled Tribe.

As regards the status of the off-spring whose father is a member of Scheduled Caste and mother of a Schedule Tribe, the prima-facie presumption is in favour of the child possessing the caste of the father, in the large majority of cases, having regard to the concept of domicile explained in para IV above. Apart from this, it may also be a relevant criterion to see whether the child has been accepted and assimilated in the Scheduled Caste community to which the father belongs. The same principal will also apply to the case of an off-spring whose mother is a member of a Scheduled Caste and father of a Scheduled Tribe. However, each case has to be examined in the light of the attendant facts and circumstances.

As per the said instructions stated supra, in the instant case, the appellant is brought up in the fold of ST-Yerukula community. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority failed to observe the finding of the concerned above.

VI. Further the Appellate Authority is observed that in circular Memo No.10956/CV.1/97-2, dated 16.2.1998, the instructions were issued for issuance of community certificates to SC/ STs, as per the said instructions among other things the community claim will be applicable to the persons by birth which community is they belongs as follows:

General Instructions :- (Applicable in all cases)
Where a person claims to belong to Scheduled Caste or Scheduled Tribe by birth it should be verified:-

1) that the person and the parents actually belong to the community claimed;

2) that this community is included in the Constitution (Scheduled Castes and Scheduled Tribes) Order, 1950 as amended in 1976, which specified the Scheduled Castes or Scheduled Tribes in relation to the State of Andhra Pradesh;

3) that the person belongs to the State of Andhra Pradesh and the area within the State in respect of which the community has been Scheduled;

In the instant case, the DLSC in their findings also agreed that the appellant's father belongs to ST-Yerukula community but his mother belongs to BC and he lived with his father & mother and he is followed the traditions and customs of the his father's community i.e. ST-Yerukula.

10. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), hereby allowed the Appeal Petition filed by Sri Kadirappa Kuni, S/o late K.Nagappa, by upholding his Scheduled Tribe (Yerukula) community claim for him alone only & ST-Yerukula caste certificate issued by the then Tahsildar, Madanapalli and the Proceedings of the District Collector, Chittoor issued in the reference 1st read above are set-aside.

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11. The District Collector, Chittoor is directed to take necessary consequential action in the matter.

12. The records (containing Rc.No.C3/4705/2003, pages-442) received from the District Collector, Chittoor through the reference 7th read above, are returned herewith in original to the District Collector, Chittoor and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Chittoor.
(with original records) (BY RPAD)

Sri Kadirappa Kuni, S/o Late K. Nagappa,
Mandemvaripalli Village, H/o Thettu,
Kurabalakota Mandal, Chittoor District.

M/s. B.V. Krishna Rao(835),
T.R. Koteswara Rao, Advocates,
#1-8-703/9/A, Padma Colony, Nallakunta,
Hyderabad – 500044.

OR

The Advocates Association, High Court Building,
Hyderabad-500266.

The Senior General Manager,
BSNL, Telecom, Ananthapuram District.

The Chief General manager,
Telecom, BSNL, Nampally, Hyderabad.

Copy to:

The Director, TCR & TI, A.P., Amaravati.
The P.S. to Hon'ble Minister(TWE&HFW)
The P.S. to Principal Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER